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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,583	07/31/2001	L. Jeffrey Kapner III	A0795	5991
35219 7590 07/09/2008 WESTERN DIGITAL TECHNOLOGIES, INC. ATTN: LESLEY NING 20511 LAKE FOREST DR. E-118G LAKE FOREST, CA 92630				
EXAMINER CHOWDHURY, SUMAIYA A				
ART UNIT 2623		PAPER NUMBER		
MAIL DATE 07/09/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/920,583

Applicant(s)

KAPNER ET AL.

Examiner

SUMAIYA A. CHOWDHURY

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 6-13, 15, 18-26, 28 and 31-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 6-13, 15, 18-26, 28, 31-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see Remarks, filed 4/28/08, with respect to claims 1, 3, 6-13, 15, 18-26, 28, and 31-38 have been fully considered and are persuasive. The Office Action of 11/26/07 has been withdrawn.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 6-13, 15, 18-26, 28, and 31-38, are rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel (6637029) in view of Knee (5589892).

As for claim 1, Maissel discloses a client terminal connectable to a video distribution system and a display device, the video distribution system provides program guide information to create a program guide that includes program guide entries for subscribed channels and non-subscribed channels, the client terminal comprising:

a video distribution system interface (120) to receive the program guide information - col. 11, lines 48-55;

a display interface (100) to display the program guide on the display device - col. 10, lines 1-5;

a user interface (110) to receive user input - col. 10, lines 54-62; and

a terminal controller responsive to a subscription control program for:

- a. in response to user input, selecting a program guide entry from the program guide (col. 10, lines 59-62, col. 20, lines 51-59)
- i. recommending at least one bundle of channels to the user based upon a subscription matrix for the user that is stored locally at the client terminal (Processing at headend is alternative embodiment, so local processing is the default position; col. 18, lines 29-42), the currently selected program guide entry for the channel displayed in the program guide, and available channels (Based on user selection, preference profile, And received program schedule information, programs are suggested to the user. Fig. 7; col. 18, lines 1-22), wherein the subscription matrix includes channels subscribed to by the client terminal and available channels not subscribed to by the client terminal (col. 14, lines 20-24, lines 34-37);
- ii. accepting user input to select a channel by the user (col. 16, lines 33-39, col. 20, lines 50-60); and
- iii. transmitting a request for the selected channel to the video distribution system (col. 10, lines 54-62)

However, Maissel fails to teach:

- b. upon selection of a channel that is for a non-subscribed channel, allowing the user to subscribe to the channel.

In an analogous art, Knee teaches when a user views a channel or schedule information for a service not subscribed to by the user, the microcontroller causes an ordering submenu to appear as shown in Fig. 9. This

submenu indicates to the user that the user isn't currently subscribed to the service and then asks the user if the user would like to order the selected service – col. 21, lines 37-60.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Maissel's invention to include the above mentioned limitation, as taught by Knee, for the advantage of allowing the user to order premium events or services on impulse.

As for claims 3, 15, and 28, Maissel fails to disclose wherein the video distribution system after receipt of the subscription request for the selected bundle of channels verifies a user's credit with a billing system to determine whether the user's credit is approved or disapproved for the selected bundle of channels, the terminal controller or video distribution controller responsive to the subscription control program/further comprising code segments or steps for:

- a. receiving the approval or disapproval from the video distribution system; and
- b. if the user's credit is approved,
 - i. updating the subscription matrix to reflect that the client terminal is now subscribed to the selected bundle of channels; and
 - ii. authorizing access to the selected bundle of channels.

In an analogous art, Knee discloses

a. receiving the approval or disapproval from the video distribution system (col. 22, lines 10-15); and

b. if the user's credit is approved,

i. updating the subscription matrix to reflect that the client terminal is now subscribed to the selected bundle of channels (If confirmed, the microcontroller will store the ordering information. Col. 21, lines 29-34); and

ii. authorizing access to the selected bundle of channels (If the user is not authorized to receive the specific programming a screen as in Fig. 9 is displayed to the user allowing the user to order the service. – col. 21, lines 37-50, lines 29-34).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Maissel's invention to include the above mentioned limitation, as taught by Knee, for the advantage of allowing the user to order programming on impulse.

As for claims 6, 18, and 31, Maissel and Knee disclose wherein the selected bundle of channels is the most cost effective bundle of channels having a subscription cost that is less than the subscription cost of individually subscribing to the non-subscribed channel (It is well known that when ordering a package of services, the subscription cost of the entire package is less than the total

subscription cost of subscribing to the channels individually. – col. 21, lines 50-60).

As for claims 7, 20, and 33, Maissel and Knee disclose wherein client terminal further comprising the step/preference engine/code segments, wherein the preference engine/code segments selects program guide entries for non-subscribed channels for display in the program guide based upon a user's viewing patterns. In particular, Maissel discloses the program schedule customization apparatus preferably identifies preferred programs by applying the at least one viewer preference profile to the program schedule information. The program schedule information is then customized accordingly (Fig. 7; col. 18, lines 1-25).

As for claims 8, 21, and 34, Maissel and Knee disclose wherein the client terminal is coupled to the video distribution system by a link that provides a persistent connection (Maissel; col. 2, lines 61-64).

As for claims 9, 22, and 35, Maissel and Knee disclose the claimed limitations. In particular, Maissel discloses wherein the menu (Fig. 9D) includes a category for each listed channel – (This is done to group channels into their respective categories to provide the user the ease of finding a desired channel. Col. 20, lines 45-56).

As for claims 10, 23, and 36, Maissel and Knee disclose the claimed limitations. In particular, Maissel discloses wherein a channel includes a computer network channel – col. 15, lines 24-33.

As for claims 11, 24, and 37, Maissel fails to disclose the client terminal comprising selecting only a program of the program guide entry of a non-subscribed channel for subscription in selecting the bundle of channels.

In an analogous art, Knee discloses wherein the client terminal selects a program of the program guide entry of a non-subscribed channel for subscription in selecting the bundle of channels – col. 21, lines 49-55.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Maissel's invention to include the above mentioned limitation, as taught by Knee, for the advantage of providing the user the option of selecting programming as desired.

As for claims 12, 25, and 38, Maissel and Knee disclose the claimed limitations. In particular, Maissel discloses the video distribution system is a cable head end – col. 2, lines 60-65.

Claims 13 and 26 contain the limitations of claim 1 and are analyzed as previously discussed with respect to that claim.

As for claims 19 and 32, Maissel fails to disclose:

- a. displaying a promotion display for a bundle of channels.
- b. in response to user input, selecting the promotion display.
- c. transmitting a subscription request for the bundle of channels to the video distribution system.

In an analogous art, Knee discloses:

- a. displaying a promotion display for a bundle of channels (col. 21, lines 50-55).
- b. in response to user input, selecting the promotion display (col. 21, lines 44-60).
- c. transmitting a subscription request for the bundle of channels to the video distribution system (col. 21, lines 30-35).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Maissel's invention to include the above mentioned limitation as taught by Knee, for the advantage of providing television programming services in a cost effective manner.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUMAIYA A. CHOWDHURY whose telephone number is (571)272-8567. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2623

/Sumaiya A Chowdhury/
Examiner, Art Unit 2623